

ORIGINAL

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JEANNE COLLETTE WERNER
Deputy Attorney General, State Bar No. 93170
3 Department of Justice
2101 Webster Street, 12th Floor
4 Oakland, California 94612-3049
Telephone: (510) 286-3787
5 Attorneys for Complainant
6
7

8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) NO. AC-94-5
12 Against:)
) OAH NO. N 9408118
13 ELLIOTT LEWIS DORFLER)
2460 Vallejo Street) STIPULATION
14 San Francisco, CA 94123)
)
15 Certified Public Accountant)
Certificate No. CPA 14696)
16)
Respondent.)
17

18
19 IT IS HEREBY STIPULATED by and between Elliott Lewis
20 Dorfler, the respondent in this proceeding, by and through his
21 attorney, Conrad Donner, and the Board of Accountancy, State of
22 California, by and through its attorney, Jeanne Collette Werner,
23 Deputy Attorney General, that:

24 1. The Accusation in case number AC-94-5 is currently
25 pending against Elliott Lewis Dorfler ("respondent"), said
26 Accusation having been filed with the Board of Accountancy,
27 Department of Consumer Affairs of the State of California
28 ("Board") on June 2, 1994.

1 2. Respondent was licensed by the Board on June 20,
2 1969, under Certified Public Accountant Certificate No. CPA
3 14696, which license was, at all times herein relevant, in full
4 force and effect until it expired subject to renewal on June 1,
5 1992. The license was subsequently renewed and is current
6 through May 31, 1996.

7 3. Carol Sigmann, Executive Officer of the Board, is
8 the Complainant in the Accusation, which was filed and is being
9 prosecuted solely in her official capacity.

10 4. It is acknowledged by the parties that this
11 stipulation constitutes an offer in settlement to the Board of
12 Accountancy and is not effective until adoption by the Board.

13 5. The Board acquired jurisdiction over respondent
14 because respondent is a Board licensee and was served with a copy
15 of the Accusation and all other documents required by Government
16 Code sections 11503 and 11505. Respondent has received and read
17 the Accusation, and has timely filed a Notice of Defense. A copy
18 of the Accusation is attached hereto as Exhibit A and
19 incorporated herein.

20 6. Respondent is represented by his attorney, Conrad
21 Donner, Esq., with whom respondent has discussed the provisions
22 and effects of this stipulation.

23 7. Respondent understands the nature of the charges
24 alleged in the Accusation and that the charges and allegations,
25 if proven at hearing, constitute cause for imposing discipline
26 upon respondent's Certified Public Accountant Certificate.

27 8. Respondent has been fully advised by his counsel
28 regarding his legal rights and the effects of this stipulation.

1 Respondent is fully aware of his right to a hearing on the
2 charges contained in the Accusation, his right to confront and
3 cross-examine witnesses against him, his right to
4 reconsideration, appeal, and any and all other rights which may
5 be accorded him under the California Administrative Procedure Act
6 (Gov. Code, § 11500 et seq.) and, with this in mind, freely and
7 voluntarily waives such rights.

8 9. Respondent admits all of the charges and
9 allegations in the Accusation, and each of them, and stipulates
10 that, accordingly, cause for discipline exists against his
11 license, as is set forth in the Accusation.

12 Specifically, on or about June 29, 1993, he pled guilty
13 to, and was convicted of, five counts of violation of Penal Code
14 section 487.1 (grand theft-felony), in Case No.132453, People vs.
15 Elliott Lewis Dorfler, San Francisco City and County Superior
16 Court. Said crimes are substantially related to the practice of
17 his profession. Respondent was admitted special allegations
18 regarding excessive taking of funds and enhancements related to
19 the counts, which enhancements allege in part that there was no
20 discovery of the offenses due to the fact that respondent was a
21 trusted Certified Public Accountant, that in some cases he was a
22 personal friend, that he was a long-time accountant for some of
23 the victims, managing and controlling their accounts, investments
24 etc., and that he fraudulently failed to disclose and concealed
25 his theft from the victims.

26 The amount of the defalcation is at least
27 \$1,760,808.89, and involved the following victims: California
28 Contemporary; the Bryan Estate; the Margolis trusts; the Kolotkin

1 trust, and the Gornnert trust. Respondent stipulated that, if and
2 when any of the five named victims obtain a judgment against
3 respondent, it may not be dischargeable in bankruptcy.

4 10. Appended hereto as Exhibit B and incorporated
5 herein as though fully set forth is a statement by respondent in
6 which he asserts more fully several matters including his efforts
7 to assume responsibility for his conduct, his remorse for his
8 conduct, and the status of his attempts to make restitution.

9 11. Respondent understands that in signing this
10 Stipulation rather than contesting the Accusation, he is enabling
11 the Board of Accountancy of the State of California to issue the
12 following order without further legal process.

13 12. Based upon the foregoing recitals, THE PARTIES
14 STIPULATE AND AGREE THAT the Board shall, without further notice
15 or formal proceeding, issue the following order:

16
17 IT IS HEREBY ORDERED that Certified Public Accountant
18 Certificate number CPA 14696 issued to Elliott Lewis Dorfler is
19 revoked.

20
21
22 13. Admissions made by respondent herein are for
23 purposes of this proceeding, for any other disciplinary
24 proceedings by the Board or any other state or federal licensing
25 or regulatory entity, and for any petition for reinstatement,
26 reduction of penalty, or application for relicensure, and shall
27 have no force or effect in any other case or proceeding.

28 14. In the event this stipulation is not adopted by

1 the Board of Accountancy, nothing herein recited shall be
2 construed as a waiver of respondent's right to a hearing or as an
3 admission of the truth of any of the matters charged in the
4 Accusation.

5
6 DATED: February 1, 1995

7
8 DANIEL E. LUNGREN, Attorney General
9 of the State of California

10 *Jeanne Collette Werner*
11 JEANNE COLLETTE WERNER
12 Deputy Attorney General
Attorneys for Complainant

13 DATED: January 25, 1995

14 *Conrad Donner*
15 CONRAD DONNER
16 MacInnis, Donner & Koplowitz
Attorney for Respondent

17
18 I, Elliot Lewis Dorfler, hereby certify that I have
19 read this Stipulation and agreement in its entirety, that my
20 attorney of record has fully explained the legal significance and
21 consequences thereof, that I fully understand all of same and
22 agree to be bound thereby, and in witness thereof I affix my
23 signature.

24 DATED: January 25, 1995

25 *Elliot Lewis Dorfler*
26 ELLIOT LEWIS DORFLER
27 Respondent

28 Exhibit A: Accusation No. AC-94-5
Exhibit B: Statement of Respondent, Elliot Lewis Dorfler

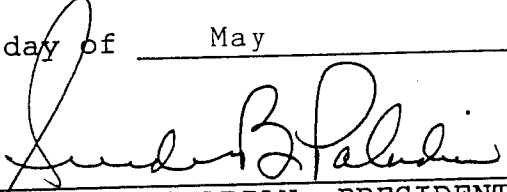
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECISION AND ORDER
OF THE BOARD OF ACCOUNTANCY

The foregoing Stipulation in settlement of Accusation
No. AC-94-5 is hereby adopted as the Decision of the California
Board of Accountancy.

An effective date of March 25, 1995, has been
assigned to this Decision and Order.

Made this 23rd day of May, 1995.



AVEDICK POLADIAN, PRESIDENT
BOARD OF ACCOUNTANCY

EXHIBIT A

JUN 26 PM 3:54

1 DANIEL E. LUNGREN, Attorney General
of the State of California

2 JEANNE C. WERNER
Deputy Attorney General
3 2101 Webster Street, 12th Floor
Oakland, California 94612-3049
4 MAILING ADDRESS:
455 Golden Gate Avenue, Room 6200
5 San Francisco, California 94102
Telephone: (510) 286-3787

6 Attorneys for Complainant

8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation
Against:

ACCUSATION NO. AC-94-5

12 ELLIOTT LEWIS DORFLER
13 289 Magellan Avenue
San Francisco, CA 94116

14 Certified Public Accountant
15 Certificate No. CPA 14696,

16 Respondent.

17
18
19 CAROL SIGMANN charges and alleges:

20 1. She is the Executive Officer of the California
21 State Board of Accountancy (hereinafter the "Board") and makes
22 and files this accusation solely in her official capacity.

23 LICENSE INFORMATION

24 2. On or about June 20, 1969, Certified Public
25 Accountant Certificate No. CPA 14696 was issued to respondent
26 Elliott Lewis Dorfler (hereinafter "respondent"), by the Board,
27 under the laws of the State of California. Said certificate was

1 in full force and effect until it expired subject to renewal on
2 June 1, 1992.

3 STATUTES, REGULATIONS, AND PROFESSIONAL STANDARDS

4 3. This accusation is brought under the authority of
5 Section 5100 of the Business and Professions Code (hereinafter
6 "Code") which provides that the Board may revoke, suspend or
7 refuse to renew any permit or certificate issued by the Board, or
8 may censure the holder of any such permit or certificate for any
9 of the causes therein specified, including Section 5100(a), which
10 provides that discipline may be imposed for the conviction of any
11 crime substantially related to the qualifications, functions and
12 duties of a certified public accountant or a public accountant.

13 4. Board Rule 99¹/sets forth the applicable
14 substantial relationship criteria, which include (a) (F)iscal
15 dishonesty or breach of fiduciary responsibility of any kind; and
16 (c) (D)ishonesty, fraud, or gross negligence in the practice of
17 public accountancy.

18 CHARGES AND ALLEGATIONS

19 5. Respondent is subject to disciplinary action
20 pursuant to section 5100(a) of the Business and Professions Code
21 in that, on or about June 29, 1993, he pled guilty to, and was
22 convicted of, five counts of violation of Penal Code section
23 487.1 (grand theft-felony), in Case No.132453, People vs. Elliott
24 Lewis Dorfler, San Francisco City and County Superior Court. Said
25 crimes are substantially related to the practice of his

26

27 1. Board Rules are codified in Title 16, Chapter 1,
Articles 1-13 of the California Code of Regulations.

1 profession.

2 6. Respondent was also charged with special
3 allegations regarding excessive taking of funds (Penal Code
4 Sections 12022.6 (A) or (B), Penal Code Section 1203.45 and Penal
5 Code Section 803(c)(1). Respondent admitted the excessive taking
6 allegations and enhancements with relation to each of the five
7 counts, admitting Section 12022.6(b) enhancements with regard to
8 counts I, II and III (excessive taking - in excess of \$ 100,000),
9 and Section 1202.6(a) enhancements with regard to counts IV and V
10 (excessive taking - in excess of \$25,000).

11 7. The enhancements allege in part that there was no
12 discovery of the offenses due to the fact that respondent was a
13 trusted Certified Public Accountant, that in some cases he was a
14 personal friend, that he was a long-time accountant for some of
15 the victims, managing and controlling their accounts, investments
16 etc., and that he fraudulently failed to disclose and concealed
17 his theft from the victims.

18 8. Respondent was sentenced on September 16, 1992, to
19 state prison for three years. The enhancements were stayed
20 because of an early admission of wrongdoing. Respondent was
21 ordered to make restitution to the named victims in Counts I
22 through V, that is California Contemporary (I); the Estate of
23 Herbert Lem Bryan (II); Dr. Lawrence Margolis (III); Dr. Marvin
24 Kolotkin (IV); and Mr. Gene Gornnert (V).

25 In the case of (Count I) California Contemporary,
26 respondent maintained a second (false) set of workpapers which
27 did not disclose funds paid to himself in order to fraudulently

1 conceal his theft from the victims. Unauthorized checks made
2 payable to respondent and deposited into respondent's account
3 total \$ 791,480.00. Respondent is a personal and trusted friend
4 to several of the corporation's stockholders.

5 In the case of (Count II) the Bryan Estate, respondent
6 had been the late Herbert Bryan's company CPA for 15 years, and
7 was subsequently retained as the accountant for the Bryan Estate.
8 Respondent deposited a net of \$706,188.89 to his own account from
9 the estate without authorization.

10 In the case of (Count III) the Margolis children's
11 trusts, all the money from the trusts, \$ 139,830.00, was taken
12 and used by respondent.

13 In the case of (Count IV) Dr. Kolotkin, respondent
14 prepared and gave to Kolotkin in July, 1989, a false document
15 showing Kolotkin's son's trust funds to be in excess of
16 \$49,000.00, which was a fabrication. Respondent, who had been Dr.
17 Kolotkin's accountant since the mid 1970's, took the money.

18 In the case of (Count V) Gene Gornnert, respondent was
19 the trustee of \$ 68,416.44, the proceeds of a real estate
20 transaction. Respondent transferred the money from his cash
21 account to a money market account, on which were drawn checks
22 amounting to \$ 60,000.00, payable to respondent.

23 The amount of the defalcation is at least
24 \$ 1,760,808.89. The amount of restitution that may be ordered by
25 the court is limited by law to \$10,000 per victim. Respondent
26 stipulated that, if and when any of the five named victims obtain
27 a judgment against respondent, it may not be dischargeable in

1 bankruptcy.

2 OTHER MATTERS

3 9. It is charged, in aggravation of penalty, that the
4 respondent's crime involved the actual taking of great monetary
5 value; that he took advantage of a position of trust or
6 confidence to commit the offense; and that he carried the crimes
7 out with planning, sophistication, and professionalism, creating
8 false documents, including IRS returns, in some instances to
9 support his defalcations, and engaging in his fraudulent plans
10 over a period of years.

11 PRAYER

12 WHEREFORE, the complainant requests that a hearing be
13 held on the matters herein alleged, and that following said
14 hearing, a decision be issued:

15 1. Revoking or suspending Certified Public Accountant
16 Number 14696, heretofore issued to respondent;

17 2. Taking such other and further action as the Board
18 deems proper.

19
20 Dated:

June 2, 1994.
Carol Sigmann

CAROL SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

24
25 Complainant

26 03541-110SF93AD1049

EXHIBIT B

Declaration of Elliott Dorfler

Exhibit "B"

I received my degree in accounting in 1960 and obtained my license as a certified public accountant in California in 1969. Throughout my adult life, I have only been employed as an accountant or have been engaged in business/investments with an emphasis upon accounting matters.

I suffered from severe depression for a period of several years before the events mentioned herein occurred, which prevented me from performing my work as an accountant with the same degree of efficiency and energy that I had always previously displayed. As a result of depression, I was unable to exercise the sound judgment that I had always possessed.

Based upon my inability to conduct an accounting practice as I had been able to do for over 25 years, I merged my accounting practice with that of another certified public accountant, who soon urged me to merge our joint practices with Laventhal & Laventhal, a large accounting firm, which went into bankruptcy in 1989. I initially took funds to pay ongoing family expenses. I then attempted to cover-up the taking of these funds by investing other funds in a business. This business became unprofitable. Further funds were used by me to try to restore this business to profitability, which never occurred.

When I realized what I had done, I made several attempts to commit suicide, as I thought that suicide was the only answer to the pressures that had built up inside. I had a \$1,000,000.00 life

insurance policy which I hoped would be payable upon my death to make the victims of my conduct whole.

While my attempts to commit suicide were unsuccessful, it did cause me to undergo psychiatric treatment. During the course of that treatment, I realized the grievous nature of my conduct. Before anyone discovered what I had done, I voluntarily went to each of the victims to explain to them the terrible things that I had done. I offered to disgorge myself of every dollar that my wife and I had and to work out a payment schedule to repay all of the funds that had been illegally taken.

One of the victims from whom I had illegally taken money was California Contemporary, Inc. One of the principals of that company was very supportive of me and hired me to continue working for almost one year during 1990. In this way I hoped that I could make up for some of the losses that California Contemporary, Inc. had sustained. In order to meet expenses, I received only 50% of my salary. The other 50% was retained to make up for some of these losses.

I tried to work out an arrangement with all of the victims, but each engaged separate attorneys to try to be the first to reach whatever assets that existed. I kept all of the parties advised as to what the other creditors were doing, so that whatever assets existed would be shared by all. Finally, an involuntary bankruptcy proceeding was initiated by California Contemporary, Inc., which prevented any one victim from receiving a priority interest over others.

I fully cooperated with the Office of the District Attorney of the City and County of San Francisco and provided the investigator with all of the documents, books and records and bank statements that I had in my possession. I entered a plea of guilty to certain charges pursuant to an agreement between defense counsel and the District Attorney. I fully admitted my guilt.

As a result of the plea of guilty which I entered, I was sentenced to three years in prison. I served two (2) months at San Quentin, fourteen (14) months at Del Norte Vocational Institute in Tracy, California and three (3) months at ECI.

I realize that I have made a very serious and foolish mistake. It is difficult for me to believe that I actually stole money, as I had never done anything like that in my life. In fact, I had never even received a serious traffic ticket. I know that nothing like this will ever happen to me again. This has been the most humiliating and difficult experience anyone could have.

I am informed and thereon believe that the Bryan Estate has been able to recoup most, if not all of its loss. The bankruptcy proceedings, which were initiated by California Contemporary, Inc. to prevent one creditor from gaining advantage over other creditors, holds all of my assets, which will be disbursed in accordance with normal bankruptcy procedures. I have been ordered to pay restitution to each of the victims in the amount of \$10,000.00. Up to now, I have been unable to secure any full-time employment. The only employment that I have been able to secure is part-time accounting work, which has generated less than \$1,000.00 per month, and which is substantially less than the minimum

subsistence level. As a result of the intervention of the bankruptcy proceedings and my inability to secure employment, I have been unable to make formal restitution to the victims. However, I expect that funds will be disbursed from the bankruptcy court and will be applied towards the losses that my victims have suffered. However, even after all funds are disbursed from the bankruptcy court, only the restitution ordered by the Court will be complete. Judgments that have been rendered against me are not discharged by the bankruptcy court but will survive the bankruptcy.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except as to the matters that are stated on my information and belief, and as to those matters, I believe it to be true.

Executed this 25th day of January, 1995 at San Francisco, California.


Elliott Dorfler

j:\j870051\decl.1